

JUN 01 2017

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DARYLL KEITH SHUMAKE,
Plaintiff,

v.

COMMONWEALTH OF VIRGINIA,
Defendant.

Civil Action No. 7:17-cv-00214

MEMORANDUM OPINION

By: Hon. Michael F. Urbanski
United States District Judge

Daryll Keith Shumake, a Virginia inmate proceeding pro se, filed a motion for a preliminary injunction in this civil action filed pursuant to 42 U.S.C. § 1983 against the Commonwealth of Virginia. A movant must establish four elements before a preliminary injunction may issue: 1) he is likely to succeed on the merits; 2) he is likely to suffer irreparable harm in the absence of preliminary relief; 3) the balance of equities tips in his favor; and 4) an injunction is in the public interest. Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).

Plaintiff fails to establish that he is likely to succeed on the merits of his claims because he fails to name a proper defendant. See, e.g., Will v. Michigan Dep't of State Police, 491 U.S. 58, 70 (1989) (stating states are not persons for purposes of § 1983). Accordingly, Plaintiff fails to satisfy the elements for a preliminary injunction, and his motion for a preliminary injunction must be denied.

ENTER: This 30th day of May, 2017.

/s/ Michael F. Urbanski

United States District Judge